

## REMARKS/ARGUMENTS

Claims 1, 5-7, 23, 31, 33-37, and 39-45 were previously pending in the application. Claims 1-xx are amended herein. Assuming the entry of this amendment, 1, 5-7, 23, 31, 33-37, and 39-45 are now pending in the application. Claims 1, 5, 6, 7, 23, 31, 33, 34, and 42 are independent claims. The Applicant hereby requests further examination and reconsideration of the application in view of the foregoing amendments and these remarks.

In the event that the Examiner believes that this amendment does not place the application in condition for allowance, the Applicant requests a telephonic interview between the Examiner and the Applicant's attorney Ian M. Hughes to discuss this amendment. The Applicant requests that the Examiner call Mr. Hughes (610-933-8809) to arrange a convenient time for such an interview.

The Applicant has amended claim 1 to recite:

wherein the paging mechanism and alerting mechanism are **for use in locating a missing handset . . . continuously affect a characteristic of a page alerting signal . . . based on a condition wherein the condition is a measured quality of a communication channel between the base unit and the handset and the measured quality of the condition is related to a distance between the base station and the handset** [emphasis added].

As recited in amended claim 1, to locate a missing handset, a characteristic of the page alerting signal is continuously affected (e.g., modified or varied) based upon a condition that is a measured quality of a communication channel between the base unit and the handset related to a distance between the base station and the handset. Consequently, for example, the location of the handset from the base unit might be determined by the relative quality of the page alerting signal since the page alerting signal characteristic is varied based upon the distance from the base unit. Support for the amendment is found throughout the Applicant's specification and, specifically, at page 6, lines 4-22, and page 8, lines 13-22, discussing the change in alerting signal based on particular position. Independent claims 5-7, 23, 31, 33, 34, and 42 are similarly amended to recited similar features.

In paragraph 4, the Examiner rejected independent claims 1, 6, and 7 under 35 U.S.C. 102(b) as being anticipated by US Patent No. 4,884,294 to Inagami (hereinafter "Inagami"). In paragraph 5, the Examiner rejected independent claim 31 under 35 U.S.C. 102(e) as being anticipated by US Patent No. 5,952,918 to Ohayon (hereinafter "Ohayon"). In order to be anticipated under 35 U.S.C. 102, all of the elements of Applicant's invention as claimed must be present in the allegedly anticipating reference. For the following reasons, the Applicant submits that the claims 1, 6, 7, and 31 are allowable over the cited references since neither Inagami nor Ohayon cited by the Examiner teach or suggest continuously affecting a characteristic of the page alerting signal based upon a condition that is a measured quality of a communication channel between the base unit and the handset related to a distance between the base station and the handset to locate the missing handset.

Inagami describes a paging function affects two levels of volume, namely, whether the person holding the cordless phone is talking or not talking (Inagami, col. 5, line 4), or whether the person (cordless phone handset) is near or far. While the Applicant makes no admission that Inagami discloses a location function, Inagami, at best, is describing a very coarse location indicator ("near" or "far") that

would do little to help a person actually locate the cordless phone handset if lost. In contrast, by continuously affecting a characteristic of the page alerting signal based upon a condition related to a distance between the base station and the handset, the user is provided a **fine distance estimate** as to the handset's location in order to locate the missing handset. Consequently, Inagami does not teach or suggest continuously affecting a characteristic of the page alerting signal based upon a condition that is a measured quality of a communication channel between the base unit and the handset related to a distance between the base station and the handset to locate the missing handset, as recited in Applicant's amended claims.

Ohayon describes producing a sound or light from a remote unit when a recovery button is pressed. Ohayon only describes pressing a button at a base unit to produce a indication at the remote unit, and does not give any other indication useful as a fine distance estimate for locating the unit, especially when the unit is located far away. Therefore, Ohayon simply describes that which was known in the art, as described and distinguished in Applicant's Specification in the Background of the Invention, page 2, line 9, to page 3, line 2. Consequently, Ohayon does not teach or suggest continuously affecting a characteristic of the page alerting signal based upon a condition that is a measured quality of a communication channel between the base unit and the handset related to a distance between the base station and the handset to locate the missing handset, as recited in Applicant's amended claims.

Neither Inagami nor Ohayon, whether taken alone or in combination with other cited references, teaches or suggests all of the elements of Applicant's amended claim 1, namely, **to locate the missing handset**, continuously affecting a characteristic of the page alerting signal based upon a condition that is a measured quality of a communication channel between the base unit and the handset related to a distance between the base station and the handset. Applicant submits that amended claims 1, 6, 7, and 31 are allowable over Inagama and Ohayon and that the rejections of these claims under 35 U.S.C. 102 are overcome.

In paragraph 6, the Examiner rejected claim 5 under 35 U.S.C. 103(a) as being unpatentable over Inagami in view of US Patent No. 5,198,800 to Tozawa (hereinafter "Tozawa"); claims 23 and 39-41 as being unpatentable over Inagami in view of US Patent No. 5,117,504 to Dennerlein et al. (hereinafter "Dennerlein"); claim 33 as being unpatentable over Ohayon in view of US Patent No. 6,166,652 to Benvenuti (hereinafter "Benvenuti"); claims 34-37 as being unpatentable over Ohayon in view of EP 0876040A1 to Hardouin (hereinafter "Hardouin"); and claims 23 and 39-41 as being unpatentable over Inagami in view of US Patent No. 5,805,667 to Alvarez et al. (hereinafter "Alvarez"). For the following reasons, the Applicant submits that the claims are allowable over the cited references since none of the references cited by the Examiner, either when taken alone or in combination, teach or suggest continuously affecting a characteristic of the page alerting signal based upon a condition that is a measured quality of a communication channel between the base unit and the handset related to a distance between the base station and the handset to locate the missing handset.

For similar reasons discussed above with respect to amended claims 1, 6, 7, and 31, the Applicant submits that claims 5, 23, 33-37, and 39-45 are also allowable over Inagama and Ohayon since these references neither teach or suggest continuously affecting a characteristic of the page alerting signal based upon a condition that is a measured quality of a communication channel between the base unit and the handset related to a distance between the base station and the handset, as recited in Applicant's claims.

Tozawa, as stated by the Examiner in the Detailed Action (mail date 11/15/08) at col. 4, lines 29-36, describes an alarm that alerts a worker close to a machine whether they are very close (alarm

intermittence short), near (alarm intermittence long), or far (no alarm). However, like Inagami, Tozawa only really gives two indications, similar to Inagami, that the transceiver is in one of two positions (a coarse distance estimate), and does not really give information that can be related to a particular distance (a fine distance estimate). Consequently, Tozawa does not teach or suggest **continuously** affecting a characteristic of the page alerting signal based upon a condition that is a measured quality of a communication channel between the base unit and the handset related to a distance between the base station and the handset, as recited in Applicant's amended claims.

Dennerlein, as stated by the Examiner in the Detailed Action (mail date 11/15/08), describes signal delay measurements related to distance in a wireless environment, but does not describe using an alerting signal to locate the mobile radio set. Consequently, Dennerlein does not teach or suggest continuously affecting a characteristic of the page alerting signal based upon a condition that is a measured quality of a communication channel between the base unit and the handset related to a distance between the base station and the handset to locate the handset, as recited in Applicant's amended claims.

Benvenuti, as stated by the Examiner in the Detailed Action (mail date 11/15/08), describes varying duration and tonal quality of a signal, but does not describe using an alerting signal to locate a unit. Consequently, Benvenuti does not teach or suggest continuously affecting a characteristic of the page alerting signal based upon a condition that is a measured quality of a communication channel between the base unit and the handset related to a distance between the base station and the handset to locate the handset, as recited in Applicant's amended claims.

Hardouin, as stated by the Examiner in the Detailed Action (mail date 11/15/08), describes adjusting audio strength based on received signal strength, but does not describe using an alerting signal to locate the unit. Consequently, Hardouin does not teach or suggest continuously affecting a characteristic of the page alerting signal based upon a condition that is a measured quality of a communication channel between the base unit and the handset related to a distance between the base station and the handset to locate the handset, as recited in Applicant's amended claims.

Therefore, neither Inagami nor Ohayon, whether taken alone or in combination with other cited references Tozawa, Dennerlein, Benvenuti, and/or Hardouin, teaches or suggests all of the elements of Applicant's amended claims 5, 23, 33-37, and 39-45, namely, affecting a characteristic of the page alerting signal based upon a condition that is a measured quality of a communication channel between the base unit and the handset related to a distance between the base station and the handset to locate the missing handset. Applicant submits that claims 5, 23, 33-37, and 39-45 are allowable over Inagami and Ohayon, either taken alone or in combination with other cited references Tozawa, Dennerlein, Benvenuti, and/or Hardouin; and Applicant submits that the rejections of these claims under 35 U.S.C. 102 are overcome.

Applicant also respectfully submits that the rejection of claims 1,5-7, 23, 31, 33-37, and 39-45 under sections 35 U.S.C. 102 and 103 amounts to an improper rejection of the claims through improper use of recognition of the problem of the prior art (e.g., that a handset may be very far from the base unit and a user might need indication of distance) and hindsight by the Examiner.

The recognition by the Applicant of a problem in the prior art cannot be used against the Applicant to support a conclusion of obviousness. See, e.g., *In re Dow Chemical Co.*, 837 F.2d 469, 472, 5 USPQ2d 1529, 1531 (Fed. Cir. 1988) ("[A] patent applicant's statement of the purpose of the work [in the specification] is not prior art."); *In re Fout*, 675 F.2d 297, 300 n.2, 213 USPQ 532, 535 n.2 (CCPA

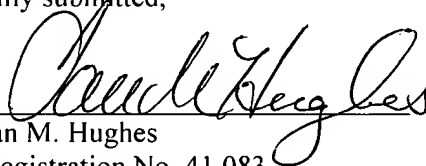
1982) ("Absent a statutory bar under 35 U.S.C. 102(b), (c) or (d), an applicant's own invention cannot be 'prior art' to him.").

If the prior art does not contain even a suggestion of the specific modifications that are needed to be made to the teachings of the prior art to yield the claimed invention, then a rejection on the grounds of obviousness based solely on the advantages provided by that claimed invention is an improper use of hindsight. See, e.g., In re Fritch, 972, F.2d 1260, 1266, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992) ("[I]t is impermissible to use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious . . . This court has previously stated that '[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.'"); Texas Instruments Inc. v. U.S. Int'l Trade Comm'n, 988 F.2d 1165, 1178, 26 USPQ2d 1018, 1029 (Fed. Cir. 1993) .

In view of the foregoing, the Applicant submits that the rejections of claims under Sections 102 and 103 have been overcome.

In view of the above amendments and remarks, the Applicant believes that the now-pending claims are in condition for allowance. Therefore, the Applicant believes that the entire application is now in condition for allowance, and early and favorable action is respectfully solicited.

Respectfully submitted,



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